

**ASSEMBLY BILL**

**No. 800**

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**Introduced by Assembly Members Lieu and Krekorian**

February 22, 2007

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An act to amend Section 5411.5 of the Health and Safety Code, and to amend Section 13271 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 800, as introduced, Lieu. Discharge of hazardous substance, sewage, or other waste: notification.

(1) Existing law generally requires any person who causes or permits any sewage or other waste to be discharged in or on any waters of the state, as soon as that person has knowledge of the discharge, to immediately notify the local health officer or the director of environmental health of the discharge. A person who fails to notify in accordance with these requirements is guilty of a misdemeanor that is punishable by a fine of not less than \$500 nor more than \$1,000, imprisonment for less than one year, or both.

The Porter-Cologne Water Quality Control Act generally requires a person who causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, as soon as that person has knowledge of the discharge and other requirements are met, to immediately notify the Office of Emergency Services of the discharge in accordance with specified spill reporting requirements. The act requires the Office of Emergency Services to immediately notify the appropriate California regional water quality control board and the local health officer and administrator of environmental health of the discharge. A person who fails to notify in accordance with these requirements, with a certain exception, is guilty of a misdemeanor that is punishable

by a fine of not more than \$20,000, imprisonment for not more than one year, or both.

This bill, instead, would require a person who causes or permits any hazardous substance, sewage, or other waste to be discharged in or on any waters of the state, within 2 hours of having knowledge of the discharge, to notify the Office of Emergency Service, the regional board, the local health officers, and the local administrators of environmental health whose jurisdictions are affected by the discharge. By establishing requirements for local health officers and local administrators of environmental health, the bill would impose a state-mandated local program. With a certain exception, the bill would provide that a person who fails to notify in accordance with these requirements is punishable by a fine of not more than \$20,000, imprisonment in the county jail for not more than one year, or both. The bill would impose a state-mandated local program by expanding the definition of a crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 5411.5 of the Health and Safety Code is  
2     amended to read:  
3     5411.5. (a) Any person who, without regard to intent or  
4     negligence, causes or permits any ~~sewage or other waste, or the~~  
5     ~~effluent of treated sewage or other waste to~~ hazardous substance,  
6     ~~sewage, or other waste to~~ be discharged in or on any waters of the  
7     state, or discharged in or deposited where it is, or probably will  
8     be, discharged in or on any waters of the state, ~~as soon as that~~  
9     ~~person has knowledge of the discharge, shall immediately notify~~  
10    ~~the local health officer or the director of environmental health of~~  
11    ~~the discharge.~~

~~(b) Any person who fails to provide the notice required by this section is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or imprisonment for less than one year, or both the fine and imprisonment.~~

~~(c) The notification required by this section shall not apply to a discharge authorized by law and in compliance with waste discharge requirements or other requirements established by the appropriate regional water quality control board or the State Water Resources Control Board shall notify entities in accordance with Section 13271 of the Water Code.~~

SEC. 2. Section 13271 of the Water Code is amended to read:

13271. (a) (1) Except as provided by subdivision (b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the state, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the state, shall, as soon as (1) that person has knowledge of the discharge, (2) notification is possible, and (3) notification can be provided without substantially impeding cleanup or other emergency measures, immediately within two hours of having knowledge of the discharge, notify the Office of Emergency Services of the discharge in accordance with the spill reporting provision of the state toxic disaster contingency plan adopted pursuant to Article 3.7 (commencing with Section 8574.16) of Chapter 7 of Division 1 of Title 2 of the Government Code.

~~(2) The Office of Emergency Services shall immediately notify the appropriate regional board and the local health officer and administrator of environmental health of the discharge. The person shall also notify, within two hours of having knowledge of the discharge, the regional board, the local health officers, and the local administrators of environmental health whose jurisdictions are affected by the discharge.~~ The regional board shall notify the state board as appropriate.

(3) Upon receiving notification of a discharge pursuant to paragraph (2), the local health officer and administrator of environmental health shall immediately determine whether notification of the public is required to safeguard public health and safety. If so, the local health officer and administrator of environmental health shall immediately notify the public of the

1 discharge by posting notices or other appropriate means. The  
2 notification shall describe measures to be taken by the public to  
3 protect the public health.

4 (b) The notification required by this section shall not apply to  
5 a discharge *that is* in compliance with waste discharge requirements  
6 or other provisions of this division.

7 (c) Any person who fails to provide the notice required by this  
8 section is guilty of a misdemeanor and shall be punished by a fine  
9 of not more than twenty thousand dollars (\$20,000) or  
10 imprisonment *in the county jail* for not more than one year, or  
11 both. Except where a discharge to the waters of this state would  
12 have occurred but for cleanup or emergency response by a public  
13 agency, this subdivision shall not apply to any discharge to land  
14 ~~which~~ *that* does not result in a discharge to the waters of this state.

15 (d) Notification received pursuant to this section or information  
16 obtained by use of that notification shall not be used against any  
17 person providing the notification in any criminal case, except in  
18 a prosecution for perjury or giving a false statement.

19 (e) For substances listed as hazardous wastes or hazardous  
20 material pursuant to Section 25140 of the Health and Safety Code,  
21 the state board, in consultation with the Department of Toxic  
22 Substances Control, shall by regulation establish reportable  
23 quantities for purposes of this section. The regulations shall be  
24 based on what quantities should be reported because they may  
25 pose a risk to public health or the environment if discharged to  
26 ground or surface water. Regulations need not set reportable  
27 quantities on all listed substances at the same time. Regulations  
28 establishing reportable quantities shall not supersede waste  
29 discharge requirements or water quality objectives adopted  
30 pursuant to this division, and shall not supersede or affect in any  
31 way the list, criteria, and guidelines for the identification of  
32 hazardous wastes and extremely hazardous wastes adopted by the  
33 Department of Toxic Substances Control pursuant to Chapter 6.5  
34 (commencing with Section 25100) of Division 20 of the Health  
35 and Safety Code. The regulations of the Environmental Protection  
36 Agency for reportable quantities of hazardous substances for  
37 purposes of the Comprehensive Environmental Response,  
38 Compensation, and Liability Act of 1980, as amended (42 U.S.C.  
39 Sec. 9601 et seq.) shall be in effect for purposes of the enforcement

1 of this section until the time that the regulations required by this  
2 subdivision are adopted.

3 (f) (1) The state board shall adopt regulations establishing  
4 reportable quantities of sewage for purposes of this section. The  
5 regulations shall be based on the quantities that should be reported  
6 because they may pose a risk to public health or the environment  
7 if discharged to ground or surface water. Regulations establishing  
8 reportable quantities shall not supersede waste discharge  
9 requirements or water quality objectives adopted pursuant to this  
10 division. For purposes of this section, “sewage” means the effluent  
11 of a municipal wastewater treatment plant or a private utility  
12 wastewater treatment plant, as those terms are defined in Section  
13 13625, except that sewage does not include recycled water, as  
14 defined in subdivisions (c) and (d) of Section 13529.2.

15 (2) A collection system owner or operator, as defined in  
16 paragraph (1) of subdivision (a) of Section 13193, in addition to  
17 the reporting requirements set forth in this section, shall submit a  
18 report pursuant to subdivision (c) of Section 13193.

19 (g) Except as otherwise provided in this section and Section  
20 8589.7 of the Government Code, a notification made pursuant to  
21 this section shall satisfy any immediate notification requirement  
22 contained in any permit issued by a permitting agency. When  
23 notifying the Office of Emergency Services, the person shall  
24 include all of the notification information required in the permit.

25 (h) For the purposes of this section, the reportable quantity for  
26 perchlorate shall be 10 pounds or more by discharge to the  
27 receiving waters, unless a more restrictive reporting standard for  
28 a particular body of water is adopted pursuant to subdivision (e).

29 SEC. 3. No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution for certain  
31 costs that may be incurred by a local agency or school district  
32 because, in that regard, this act creates a new crime or infraction,  
33 eliminates a crime or infraction, or changes the penalty for a crime  
34 or infraction, within the meaning of Section 17556 of the  
35 Government Code, or changes the definition of a crime within the  
36 meaning of Section 6 of Article XIII B of the California  
37 Constitution.

38 However, if the Commission on State Mandates determines that  
39 this act contains other costs mandated by the state, reimbursement  
40 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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